

110TH CONGRESS
1ST SESSION

H. R. 917

To prohibit the Department of Homeland Security from procuring certain items directly related to the national security unless the items are grown, reprocessed, reused, or produced in the United States.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2007

Mr. HAYES (for himself, Mr. LANGEVIN, Mr. SPRATT, Mr. MCINTYRE, Ms. HERSETH, Mr. BAIRD, Mr. JONES of North Carolina, Mr. GOODE, Mr. GINGREY, Mr. HUNTER, Mr. BARRETT of South Carolina, Mr. GOHMERT, Ms. FOXX, Mr. COBLE, Mr. WILSON of South Carolina, and Mr. WAMP) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To prohibit the Department of Homeland Security from procuring certain items directly related to the national security unless the items are grown, reprocessed, reused, or produced in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Berry Amendment Ex-
5 tension Act”.

1 **SEC. 2. BUY-AMERICAN REQUIREMENT IMPOSED ON DE-**
2 **PARTMENT OF HOMELAND SECURITY; EXCEP-**
3 **TIONS.**

4 (a) REQUIREMENT.—Except as provided in sub-
5 sections (c) through (e), funds appropriated or otherwise
6 available to the Department of Homeland Security may
7 not be used for the procurement of an item described in
8 subsection (b) if the item is not grown, reprocessed, re-
9 used, or produced in the United States.

10 (b) COVERED ITEMS.—An item referred to in sub-
11 section (a) is any of the following, if the item is directly
12 related to the national security interests of the United
13 States:

14 (1) An article or item of—

15 (A) clothing and the materials and compo-
16 nents thereof, other than sensors, electronics, or
17 other items added to, and not normally associ-
18 ated with, clothing (and the materials and com-
19 ponents thereof);

20 (B) tents, tarpaulins, or covers;

21 (C) cotton and other natural fiber prod-
22 ucts, woven silk or woven silk blends, spun silk
23 yarn for cartridge cloth, synthetic fabric or
24 coated synthetic fabric (including all textile fi-
25 bers and yarns that are for use in such fabrics),
26 canvas products, or wool (whether in the form

1 of fiber or yarn or contained in fabrics, mate-
2 rials, or manufactured articles); or

3 (D) any item of individual equipment man-
4 ufactured from or containing such fibers, yarns,
5 fabrics, or materials.

6 (c) AVAILABILITY EXCEPTION.—Subsection (a) does
7 not apply to the extent that the Secretary of Homeland
8 Security determines that satisfactory quality and suffi-
9 cient quantity of any such article or item described in sub-
10 section (b)(1) grown, reprocessed, reused, or produced in
11 the United States cannot be procured as and when needed.

12 (d) EXCEPTION FOR CERTAIN PROCUREMENTS OUT-
13 SIDE THE UNITED STATES.—Subsection (a) does not
14 apply to the following:

15 (1) Procurements by vessels in foreign waters.

16 (2) Emergency procurements.

17 (e) EXCEPTION FOR SMALL PURCHASES.—Sub-
18 section (a) does not apply to purchases for amounts not
19 greater than the simplified acquisition threshold referred
20 to in section 2304(g) of title 10, United States Code.

21 (f) APPLICABILITY TO CONTRACTS AND SUB-
22 CONTRACTS FOR PROCUREMENT OF COMMERCIAL
23 ITEMS.—This section is applicable to contracts and sub-
24 contracts for the procurement of commercial items not-

1 withstanding section 34 of the Office of Federal Procure-
2 ment Policy Act (41 U.S.C. 430).

3 (g) GEOGRAPHIC COVERAGE.—In this section, the
4 term “United States” includes the possessions of the
5 United States.

6 (h) NOTIFICATION REQUIRED WITHIN 7 DAYS
7 AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS AP-
8 PLIED.—In the case of any contract for the procurement
9 of an item described in subsection (b)(1), if the Secretary
10 of Homeland Security applies an exception set forth in
11 subsection (c) with respect to that contract, the Secretary
12 shall, not later than 7 days after the award of the con-
13 tract, post a notification that the exception has been ap-
14 plied on the Internet site maintained by the General Serv-
15 ices Administration know as FedBizOps.gov (or any suc-
16 cessor site).

17 (i) TRAINING DURING FISCAL YEAR 2008.—

18 (1) IN GENERAL.—The Secretary of Homeland
19 Security shall ensure that each member of the acqui-
20 sition workforce in the Department of Homeland Se-
21 curity who participates personally and substantially
22 in the acquisition of textiles on a regular basis re-
23 ceives training during fiscal year 2008 on the re-
24 quirements of this section and the regulations imple-
25 menting this section.

1 (2) INCLUSION OF INFORMATION IN NEW
2 TRAINING PROGRAMS.—The Secretary shall ensure
3 that any training program for the acquisition work-
4 force developed or implemented after the date of the
5 enactment of this Act includes comprehensive infor-
6 mation on the requirements described in paragraph
7 (1).

8 (j) CONSISTENCY WITH INTERNATIONAL AGREE-
9 MENTS.—

10 (1) IN GENERAL.—No provision of this Act
11 shall apply to the extent the Secretary of Homeland
12 Security, in consultation with the United States
13 Trade Representative, determines that it is in incon-
14 sistent with United States obligations under an
15 international agreement.

16 (2) REPORT.—The Secretary of Homeland Se-
17 curity shall submit a report each year to Congress
18 containing, with respect to the year covered by the
19 report—

20 (A) a list of each provision of this Act that
21 did not apply during that year pursuant to a
22 determination by the Secretary under para-
23 graph (1); and

24 (B) a list of each contract awarded by the
25 Department of Homeland Security during that

1 year without regard to a provision in this Act
2 because that provision was made inapplicable
3 pursuant to such a determination.

4 (k) EFFECTIVE DATE.—This section applies with re-
5 spect to contracts entered into by the Department of
6 Homeland Security after the date of the enactment of this
7 Act.

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